

UNITED STATES OF AMERICA  
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Secretariat

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Minutes of the IAG Committee on Labor-Management Relations

October 11, 1979

Charles Feigenbaum, Deputy Assistant Director for Labor-Management Relations, chaired the meeting. Copies of a letter to the Director of OPM from the U.S. General Accounting Office on the subject of inadequate recordkeeping of official time used for representational functions were distributed. Sharon Harris of the OLMR Staff summarized the contents of the letter in which GAO reported that it found that in over 70% of the 26 units it had surveyed, records of official time for representational functions were not being kept. The letter asked that the Director of OPM direct agencies to comply with the recordkeeping requirements of FPM Letter 711-120, that the recordkeeping requirements be expanded to include time spent in negotiating agreements, and that OPM establish reporting requirements to improve management oversight. Mr. Feigenbaum indicated that OPM was in the process of preparing a reply to GAO and that if members of the IAG had any comments and suggestions regarding the response they should contact Ms. Harris on 632-9878.

Howard Steinwandel of the Veterans Administration discussed 1 FLRA No. 111 where the Authority disagreed with the ALJ and found that the activity violated sections 19(a)(2) and (1) of the Order when it counselled and transferred the complainant, a registered nurse. What made the case somewhat unusual was that the complainant, a registered nurse, was in a unit of professional employees represented by NFFE. She had participated in a group grievance, processed under the agency grievance procedure, and had assisted AFGE, which represented a unit of nonprofessional employees. The Authority nonetheless found that the assistance she gave AFGE was protected by the Order. The Authority further concluded that the written counseling and subsequent transfer of the complainant was at least partially motivated by a desire to punish her for assisting AFGE.

Tony Ingrassia, Assistant Director of OLMR, discussed 2 FLRA 1. In that case the Authority found that time spent in preparing financial and other reports required by 5 USC 7120(c) did not constitute internal union business within the meaning of 5 USC 7131(b); and that therefore a proposal requesting official time to prepare such reports was negotiable. Mr. Ingrassia noted that footnotes quoting the extended remarks by Messrs. Clay and Ford in the Congressional Record constituted the bulk of the

decision. He indicated that statements of position on negotiability disputes that relied entirely on cases decided under EO 11491 were vulnerable: agencies should also cite legislative history to buttress their positions, such as Mr. Udall's statement at the beginning of the House debate on Title VII that his substitute was a codification of the Executive Order. (See 124 Cong. Rec. H 9633.) Mr. Ingrassia said that Bill Owens of Justice had prepared an excellent brief in which he discussed the legislative history of Title VII at length and said copies of it were available from OLMR (call the LAIRS' office on 254-5238).

Apart from the issue of whether the Authority was placing undue emphasis on the extended remarks of Messrs. Clay and Ford, and had inappropriately cited remarks inserted in the Congressional Record after passage of CSRA, Mr. Ingrassia noted that agencies must prepare for the possibility that the scope of bargaining was going to be expanded, and that consequently negotiators must be prepared to deal effectively with undesirable proposals on their merits.

Jim Hicks of the OLMR staff then discussed an arbitration fund being touted by NFFE as a way of coping with the costs of arbitration, see attached. Mr. Hicks informed the group that it is OLMR's position that where a union failed to invoke arbitration solely on the basis that the grievant had not contributed to the arbitration fund it breaches its duty of fair representation.

Mr. Feigenbaum announced that OPM's annual conference on labor relations would take place on December 3 and 4, 1979: information on the agenda will be sent to IAG members.

Attachment

## ~~'Arbitration Fund'~~ *Innovative Idea For Use by Locals*

WASHINGTON, D.C. — NFFE President James M. Peirce has appealed to Federal employees for solid support of newly created "Local arbitration funds," an innovative approach to the common "freeloader" problem of expensive arbitration for non-members.

The fund, which is the brainchild of Michael Gemza, President of Local 1616, Newark, N.J., depends on voluntary contributions from members and non-members alike. It will cover 25 to 50 percent of the employee's share of his or her arbitration costs, but it is only available to workers who have made donations.

NFFE President James M. Peirce, in a recent letter to all Local Presidents, has endorsed the concept of an arbitration fund and suggested that each Local consider starting its own.

Contributions must be kept distinct from other Local receipts in a separate bank account and used only to defray the costs of individual arbitrations. Cases of wide significance, and those involving more than one person, would be financed by the Local in any instance. But the fund offers a type of insurance policy against the expense of individual cases.

The fund does not interfere with the duty of fair representation, since both members and non-members benefit from it. In addition, while the decision of whether or not a case should be taken to arbitration is made by the Local, the question as to the use of the arbitration fund is clear-cut. Only those who have donated to the fund may use it to finance their cases.

Questions, comments and Local experiences with the arbitration fund are welcome at National Headquarters.